

REMARKS

This responds to the Office Action mailed on May 15, 2006.

Claims 6 and 13-14 are amended, and claims 8, 9 and 54 are canceled; as a result, claims 6, 10-14, 44-53 and 55-56 are now pending in this application.

The allowability of claims 8 and 10-11 is acknowledged.

Double Patenting Rejection

Claims 6, 9, 13, 14, 44-47 and 52-56 were again provisionally rejected under a non-statutory double patenting rejection, specifically over claims 10-12 of copending Application No. 10/903,500. This rejection is respectfully traversed. Upon indication of allowable subject matter in the '500 application, a terminal disclaimer will be filed, if appropriate, to overcome any obviousness-type double patenting.

§112 Rejection of the Claims

Claims 6, 9, 13, 14, 44-47 and 52-56 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. It is respectfully submitted that the amendment to claim 6 to incorporate the elements of claim 9 ("breast tissue or associated upper body tissue") and to recite that the subject matter is afflicted with breast cancer, as suggested by the Examiner, moots this rejection. Therefore, withdrawal of this rejection is respectfully requested.

§103 Rejection of the Claims

Claims 6, 9, 13, 14 and 44-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilmore (U.S. Patent No. 5,248,697) of PTO 1449 in view of Pellico (U.S. Patent No. 5,817,695). It is respectfully submitted that amendment of claim 6 to incorporate the elements of allowable claim 8 overcomes this rejection. Withdrawal of this rejection is appropriate and is respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims have been placed in condition for allowance in accord with the Examiner's suggestions, and do not require further search or consideration. Therefore entry of this amendment is proper under Rule 116, and notification of the allowance of the claims is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6903 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 6-14-06

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 14 day of June, 2006.

CANDIS BUENDING

Name


Signature